

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2015-052-00544R

Parcel No. 303326002

Jack B. Frisk,  
Appellant,

v.

Johnson County Board of Review,  
Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on January 5, 2016. Jack B. Frisk was self-represented. Assistant County Attorney Andy Chappell represented the Johnson County Board of Review.

Frisk is the owner of a residential property located at 2862 Water Street NE, Swisher, Iowa. The subject property includes a one-story dwelling, built in 2004, with 3156 total square feet of living area; a full, basement with 350 square-feet of finish; two open porches; a deck; a patio; and a 750 square-foot attached garage. The dwelling is listed in average condition with high-quality construction quality (Grade 2-10). There is also a 240 square-foot steel utility building on the property. The site is 7.31-acres.

The property's January 1, 2015, assessment was \$504,800, allocated as \$71,500 in land value and \$433,300 in dwelling value. Frisk's protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property and that the property was assessed for more than the value authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). The Board of Review denied the protest. Frisk then appealed to PAAB. He asserts the property's correct value is \$437,500.

## **Findings of Fact**

Frisk asserts his property has been over assessed, and he supplied multiple opinions of value to support this contention. He testified his main issue with the assessment is the dwelling's quality of construction. He describes his home as large and nice, but with only "off the rack" standard interior finishes. He testified there are no upgrades to the interior features. He believes this affects the value of the property.

Donna Franks of Iowa Realty in Cedar Rapids completed a market analysis of the property. Based on her knowledge, she recommended a market price of \$385,000 to \$400,000. Franks compared four sales and three listings in the area. The sale prices ranged from \$232,000 to \$385,000. Franks adjusted the sale prices to account for the differences in living area, garage, and other amenities to arrive at an adjusted sale price range of \$291,000 to \$425,000. Frisk believes Franks' analysis may underestimate the value of his property, and should be given little, if any, consideration. Instead, he believes Nick Polum's market analysis is more reasonable.

Nick Polum of Iowa Realty in Cedar Rapids recommended pricing the subject property between \$420,000 and \$430,000. Polum identified three sales and three pending sales, which all occurred in 2015, as well as an active listing. Most were ranches with similar architectural features and ranged roughly from 3400 to 4000 square feet of living area. Polum adjusted the sale/listing prices for differences in living area, bath count, and garage size.

Frisk also submitted two appraisals. Both appraisers' values reflected the total value of the property, including the pole building.

Chad Hawker of Hawker Appraisal in Cedar Rapids, opined a value of \$437,500 as of June 2015 using the sales comparison approach. Hawker commented on the property's above-average view created by the stocked pond on the site and its wooded surroundings. (Appraisal p. 1 of 6). Hawker identified four sales of small acreage properties with similar age and condition. He noted that it is often difficult to find comparables within close proximity to the subject property when appraising suburban and rural acreage type properties. (Appraisal p. 19). One sale occurred in 2014 and four in early to mid-2015. Hawker adjusted them for construction quality, site size, living

area, walkout basement, basement size and finish, garage size, outbuildings, and other amenities.

Property Address	Site Size (Acres)	Gross Living Area (GLA)	Sale Date	Sales Price	Adjusted Sales Price
Subject	7.31	3156	N/A	N/A	N/A
2469 140th St NW	6.25	2462	14-Jul	\$385,000	\$406,500
1580 Eagle View Ct NW	1.83	2629	15-May	\$416,000	\$432,200
3711 170th St NE	4.84	2107	15-May	\$425,000	\$468,000
4891 Plumberry Rd	2.52	3823	15-Mar	\$450,000	\$442,750

Based on his adjustments, Hawker determined the sales indicated a range in value of \$406,500 to \$468,000, with the lower end of this range set by the most dated sale.

Matthew Ihns of Ihns Appraisal Inc. in Ely, opined a value for the subject property of \$438,000 as of November 2015 using the sales comparison approach. Ihns also noted the subject property has a one-acre stocked pond and a treed backyard creating a beneficial view in the rear of the property. (Appraisal p. 1 of 6). Ihns identified six comparable sales, three of which Hawker relied on for his analysis. Three sales occurred in 2014 and three occurred in 2015. The properties were small acreages, and mostly wooded like the subject. They ranged in living area from 2127 square feet to 3825 square feet. Sale prices ranged from \$355,000 to \$575,000. Ihns adjusted the properties for site size, room count, living area, basement size and finish, garages, porches/patios/decks, and other amenities. Adjusted sale prices ranged from \$409,250 to \$459,500, with a median of roughly \$444,700.

Property Address	Site Size (Acres)	Gross Living Area	Sale Date	Sales Price	Adjusted Sales Price
Subject	7.31	3156	N/A	N/A	N/A
1449 Deer Woods Dr NE	2.01	2127	14-Sep	\$355,000	409,250
2469 140th St NW	6.25	2462	14-Jul	\$385,000	\$419,500
2749 Holly Ct NW	1.43	2473	14-Dec	\$400,000	\$456,000
1580 Eagle View Ct	1.83	2629	15-May	\$416,000	\$442,850
4891 Plumberry Rd	2.52	3825	15-Apr	\$450,000	\$446,500
1499 Cedar Tree Ct NE	8.64	3345	15-Nov	\$575,000	\$459,500

The appraisers used similar adjustment values per-square-foot to the dwelling finish, room count, garage count, and per-acre to the sites. We also note the three properties that both Hawker and Ihns relied on resulted in overall similar conclusions.

Comparable Property Address	Hawker Adjusted Value	Ihns Adjusted Value
2469 140th St NW	\$406,500	\$419,500
1580 Eagle View Ct	\$432,200	\$442,850
4891 Plumberry Rd	\$442,750	\$446,500

The following chart summarizes the value opinions offered by Frisk.

Source	Value Opinion
Franks	\$ 385,000 - \$ 400,000
Polum	\$ 420,000 - \$ 430,000
Hawker	\$ 437,500
Ihns	\$ 438,000
Assessment	\$ 504,800

Johnson County Assessor Tom Van Buer testified on behalf of the Board of Review. Van Buer commented that the property is a large wooded site with a pond, 3100 square-feet above grade living area, and a partially finished basement. Buer reported that an appraiser in his office assessed the subject property, but he reviewed the assessment and is comfortable with the value conclusion.

The Board of Review submitted adjusted sales to support the assessment. (Exhibit A). Van Buer testified regarding the sales he selected and the adjustments he made to those sales to support the assessment. He made adjustments on site size, quality, and other amenities. He concluded that the adjusted sales prices of these properties were all higher than the subject property's assessment.

Frisk submitted comments regarding the Board of Review's comparables. In his appraisal, Hawker commented he researched the comparable properties identified by the assessor and that all of the homes were newer ranch homes of better quality than the subject. He believes none of the homes should be used as comparables for the subject. (Appraisal p 20) Additionally, in a note by Hawker, he also indicated that two of the properties are in a superior location than the subject property.

Van Buer additionally testified he believed both appraisals were generally sound appraisals. However, he believed they were relatively light on their adjustments to the sales comparables; for example they didn't make adjustments for the lake view and the price-per-square-foot adjustments were relatively small. He also noted that generally the comparables were all smaller than the subject property in land size and above grade square feet. He conceded that all of his office's comparables were likewise smaller than the subject property.

### **Conclusions of Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.*

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the

assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Considering the record as a whole, we find the evidence shows Frisk's property is over assessed. The comparables offered by the Board of Review are discredited by Hawker's statements in his appraisal. The best evidence of the subject property's value is established in the two appraisals, which arrive at conclusions of value a mere \$500 apart. Based on these appraisals, we find the subject property's correct value should be \$437,750.

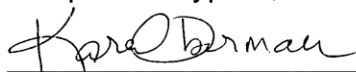
### **Order**

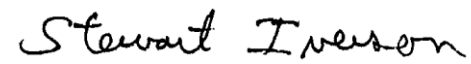
IT IS THEREFORE ORDERED that the Johnson County Board of Review's action is modified to an assessed value of \$437,750.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 24th day of February, 2016.

  
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Jacqueline Rypma, Presiding Officer

  
\_\_\_\_\_  
Karen Oberman, Board Member

  
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Stewart Iverson, Board Chair

Copies to:

Jack B. Frisk

Andy Chappell

Johnson County Auditor